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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/415,632	10/12/1999	Suzanne P. Crane	10655.7700	5093

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EXAMINER

FULTS, RICHARD C

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 04/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/415,632

Applicant(s)

CRANE ET AL.

Examiner

Richard Fults

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

This office action is responsive to Applicant's amendment (Paper No. 10) file January 14, 2003. This amendment amended claims 1 and 6. Accordingly claims 1-10 are presented for examination on their merits.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musmanno (US 4,346,442) (hereinafter Musmanno) in view of Musanno et al (US 4,774,663) (hereinafter Musanno et al) and Card News, 1998 (hereinafter Card).

3. Applicant is generally claiming a charge card billing system used in conjunction with a brokerage account to record financial transactions in the brokerage account.

Musanno discloses (see cols 1-12) either explicitly or through obviousness all of the steps in Claims 1-10, a credit card system used in conjunction with a brokerage account. It is obvious in a charge card system that it records all transactions in or out of the card account in detail of both receipts and expenditures, as it is obvious in a

brokerage account that it records all transactions of funds in and out by detail of what type of transaction and for all investment transactions made in the account. It is also inherent in a brokerage relationship with a customer that the customer will provide detailed advance instructions (typically over the telephone) to the broker as to what the account funds are to be invested in: which investments, how much, in which components of the transactions, in what time frame, and what to do with sales proceeds, and whether or not the customer will be making additional deposits to the account through whatever source and in what time frame and what should be done with those funds, and the broker in turn has a methodology of recording and storing those instructions, and Musanno teaches the combination of a charge account and a brokerage account. Musanno also teaches overdraft protection and customer selection of investments. It would have been obvious to one skilled in the art at the time of the invention to be aware of Musanno's invention, as it was a major watershed financial concept at its time, and to have used, as an alternative to the brokerage account system, the charge card system for recording the brokerage transactions, and to have funded the charge card account with cash for the purpose of funding investments of all types through the brokerage account as well as having funds available for other expenditures, including insurance, with the ease of a using a credit card. Musanno et al (see cols 1-16) further elaborates on the flexibility and convenience of using a charge card in conjunction with a brokerage account as a cash management system. Musanno does not teach using a conventional credit card using borrowed funds as the source of funds for investment.

Card (see pages 1-2) teaches the use of a conventional credit card as the source of funds for investment.

4. Claims 1-10 are rejected under 35 USC 103(a) as obvious over Musanno in view of Musanno et al and Card. Because it would have provided a more comprehensive and efficient system of money and investment management for an individual, it would have been obvious to one skilled in the art at the time of the invention to add the teachings of Musanno et al and Card to those of Musanno because it would have been common

sense and advantageous, and in keeping with long standing industry practice, and to add those of Musanno to those of the others for the same reason.

As through the past several decades brokerage firms have routinely required that any new funds from whatever source deposited to an investment account whether margin or regular must by regulation be credited first towards any existing liability for any recent purchase of securities and only thereafter to the status of excess funds or free account balance that could be used for new investments (hierarchy rules), and have had accounting systems that kept close track of such applications of fund deposits, it would have been obvious to one skilled in the art at the time of the invention to have first credited any new deposits to any type of brokerage account from whatever source towards any existing liabilities to the brokerage firm and only thereafter place the excess into a free account balance available for new investments and to have kept track within the brokerage firm's accounting system of which type of deposits went where and when and from what source, because it would have been common sense and advantageous and in keeping with long standing industry practice.

## **5. Response to Applicant's Arguments**

As regards the arguments that the references do not teach the applicant's invention, see the motivation to combine statement above in paragraph 4 and the subsequent new obviousness statement just below that. The applicant's proposed invention has been practiced now for many years by the brokerage industry and is not novel.

**6.** Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Note is taken by the examiner that should the applicant find objectionable any statements made herein by the examiner regarding inherency, implicitness, obviousness, or Official Notice, Applicant can make a proper challenge to those statements only by providing adequate information or argument so that on its face it creates a reasonable doubt regarding the circumstances justifying those statements: a simple response requesting a reference without doing so, or a response that fails to logically refute the basic assumptions underlying the justification, will result in an improper and failed challenge and those unchallenged statements will remain the record of the case. Applicants must seasonably challenge those statements in the first response following an Office Action. If an applicant fails to do so, his right to challenge them is waived.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Fults whose telephone number is 703-305-5416. The examiner can normally be reached on weekdays from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough, can be reached on (703)-305-0505. The fax phone number for the organization where this application or proceeding is assigned is 703-305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



RCF 4/2/2003



JEFFREY PWU  
PRIMARY EXAMINER